

FCC MAIL SECTION

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Federal Communications Commission
Washington, D.C. 20554

DISPATCHED BY
MM Docket No. 92-272

In the Matter of

Amendment of Section 73.202(b), RM-8107
Table of Allotments,
FM Broadcast Stations.
(Alturas, California)

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: March 8, 1993; Released: March 25, 1993

By the Chief, Allocations Branch:

1. The Commission considers herein the *Notice of Proposed Rule Making*, 7 FCC Rcd 7649 (1992), issued in response to a petition for rule making filed by KCNO, Inc. ("petitioner"), licensee of Station KYAX(FM), Channel 233C1, Alturas, California,¹ proposing the substitution of Channel 267C for Channel 233C1 and modification of its license accordingly. Petitioner filed supporting comments. Comments were also filed by Crystal Broadcasting Company ("Crystal").

2. In its comments, petitioner requests that the Commission allot Channel 267C at a different site from the site it specified in its original proposal and which was proposed in the *Notice* at coordinates 41-16-54 and 120-48-02. Petitioner states that there are United States Forest Service environmental concerns associated with the construction of power lines at the original location. Therefore, petitioner states, a revised location at coordinates 41-25-00 and 121-06-32 is preferable since it is an established "electronic site" with power already on site and with fewer environmental concerns.

3. The *Notice* stated that petitioner's nonadjacent modification request could not be implemented if another expression of interest was received unless an additional equivalent class channel was also allotted. H& In that regard, we advised that should other parties express an interest in applying for a Class C channel at Alturas, Channel 293C is available at that community. In response to the *Notice*, Crystal stated its interest in applying for a second Class C allotment at Alturas.

4. We believe the public interest would be served by granting the modification proposal at Alturas since it will enable Station KYAX(FM) to provide an enhanced service to the community. Therefore, in accordance with the provisions of Section 1.420(g)(2) of the Commission's Rules, we will substitute Channel 267C for Channel 233C1 at Alturas and modify the license for Station KYAX(FM) accordingly. Additionally, we will allot Channel 293C to Alturas, as proposed in the *Notice* as an additional equivalent class channel based upon Crystal's expression of interest in providing a second local FM service to that community.

5. Channel 267C can be allotted to Alturas at the petitioner's suggested site, located 48.3 kilometers (30 miles) west of the community.² Channel 293C can be allotted to Alturas without a site restriction.³

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective May 10, 1993, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED with respect to Alturas, California, as follows:

City	Channel No.
Alturas, California	267C, 293C

7. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of KCNO, Inc. (File No. BLH-890920KE) for Station KYAX(FM), Alturas, California, IS MODIFIED to specify operation on Channel 267C in lieu of Channel 233C1, subject to the following conditions:

- (a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, KCNO, Inc., li-

¹ Petitioner is also the licensee of Station KCNO(AM), Alturas.

² As indicated above, coordinates at the petitioner's suggested site for Channel 267C at Alturas are 41-25-00 and 121-06-32. As indicated in the *Notice*, the Alturas proposal is short-spaced to the construction permit issued for Station KCHQ(FM), Channel 267C1, Altamont, Oregon. Station KCHQ(FM) was modified effective September 8, 1992, to specify operation on Channel 249C1, in MM Docket No. 91-341. See 7 FCC Rcd 4599 (1992).

However, the issuance of a license for Station KYAX(FM) on Channel 267C at Alturas may be withheld until Station KCHQ(FM) is authorized to operate on Channel 249C1 at Altamont. We will serve a copy of this *Report and Order* on the licensee of Station KCHQ(FM).

³ Coordinates used for Channel 293C at Alturas are 41-29-18 and 120-32-18.

censee of Station KYAX(FM), is required to submit a rule making fee in addition to the fee required for the applications to effectuate the upgrade.

9. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this *Report and Order* to the permittee of Station KCHQ(FM), Altamont, Oregon, as follows: Western States Broadcasting, 12550 Brookhurst Street, #A, Garden Grove, California 92640.

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. The window period for filing applications on Channel 293C at Alturas, California, will open on **May 11, 1993**, and close on **June 10, 1993**.

12. For further information concerning the Alturas modification, contact Nancy Joyner, Mass Media Bureau, (202) 634-6530. Questions related to the window application filing process for Channel 293C at Alturas should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632-0394.

FEDERAL COMMUNICATIONS COMMISSION

Michael C. Ruger
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau